IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.95 OF 1995
With
WRIT PETITION NO.991 OF 2003
With
WRIT PETITION NO.980 OF 2003
With
WRIT PETITION NO.86 OF 2003

Writ Petition No.95 of 1995

Pradnya Khanderao Khade. ... Petitioner
v/s.
Deputy Director and Chairman,
Tribal Research and Training
Institute & ors. ... Respondents

Mr.R.S.Kate for petitioner.

Mr.C.R.Sonawane, AGP for res.Nos.1 to 3.

W I T H

Writ Petition No.991 of 2003

Pravin Khanderao Khade. ... Petitioner
v/s.
The Government of Maharashtra &
ors. ... ... Respondents

Mr.A.Y.Sakhare with Mr.Amit Sale for petitioner.

Mr.C.R.Sonawane, AGP for res.Nos.1 to 5.

W I T H

Writ Petition No.980 of 2003

Khanderao Anaji Khade. ... Petitioner
v/s.
The Government of Maharashtra &
ors. ... ... Respondents

Mr.A.Y.Sakhare with Mr.Amit Sale for petitioner.

Mr.C.R.Sonawane, AGP for res.Nos.1 to 5.

W I T H

Writ Petition No.86 of 2003

Vishwas Mahadev Khade ... Petitioner
v/s.
The Government of Maharashtra
& ors. ... Respondents

Mr.G.S. Godbole for petitioner.

Mr.C.R.Sonawane, AGP for res.Nos.1 & 2.

CORAM : H.L. GOKHALE &
J.H. BHATIA, JJ.

DATED : 6th June 2006

ORAL JUDGMENT : (Per H.L. Gokhale, J.)

1. Writ Petition No.95 of 1995 is filed by one Pradyna, daughter of Khanderao Khade, Writ Petition No.991 of 2003 is filed by her brother Pravin, Writ Petition No.980 of 2003 is filed by their father Khanderao Anaji Khade and the fourth petition i.e. Writ Petition No.86 of 2003 is filed by one Vishwas, son of Mahadev Khade. This Mahadev is a brother of Khanderao.

2. All these four petitions are filed to challenge the decisions of the Committee for Scrutiny and Verification of Tribe Claims holding that they do not belong to the Mahadeo Koli community, which is a Scheduled Tribe. The first petition i.e. Writ Petition No.95 of 1995 was filed when the petitioner had taken admission to

the M.B.B.S. course and her certificate was sent for verification. The second petition being Writ Petition No.991 of 2003 filed by Pravin was required to be filed because his caste certificate was sent for verification by the General Administration Department since he had appeared for the recruitment to the Public Service Commission. Khanderao filed the third petition i.e. Writ Petition No.980 of 2003. He is working as an Assistant Commissioner in Sales Tax. His caste certificate was sent for scrutiny by the concerned department. The fourth petition i.e. Writ Petition No.86 of 2003 is filed by Vishwas, who is employed in the Pune District Central Co-operative Bank Ltd. and it is this Bank which sent the caste certificate of Vishwas for scrutiny.

3. The authorities concerned have examined the record of all the petitioners. A vigilance report has also been obtained and thereafter the impugned orders have been passed. Inasmuch as the petitioners were likely to be seriously affected in their career, they filed all these petitions. They were admitted and interim orders were passed protecting them.

4. Mr.Kate has appeared for Pravin in Writ Petition No.95 of 1995, Mr.Sakhare, Senior Advocate with Mr.Amit Sale has appeared for Pravin and his father Khanderao in Writ Petition Nos.991 of 2003 and 980 of 2003 and Mr.Godbole has appeared for Vishwas in Writ Petition No.86 of 2003. Mr.Sonawane, learned Assistant Government Pleader has appeared for the State and the Scrutiny Committee in all these matters.

5. The Counsel for all the petitioners have criticized the orders passed by the Scrutiny Committee, principally on the ground that the Committee has not followed a uniform yardstick. As noted above, the above-referred Vishwas is the grand son of one Anaji. Similarly Pravin and Pradnya are the grand children of Anaji Khade. Khanderao is son of Anaji. This Anaji is son of one Savalaram who is stated to be a brother of one Gangaram Khade. This Gangaram Khade had four children viz. Pandurang, Namdeo, Dattatraya and Shantabai. As far as Namdeo is concerned, his school certificate is issued on 28th June 1930 showing his community as Koli. This being the oldest certificate, the Committee has relied upon it and discarded the other evidence which was sought to be relied upon by the petitioners.

6. The Counsel for the petitioners point out that when the certificate of Namdeo is being relied upon, the Committee must explain as to why the school records of Shantabai and Dattatraya should be rejected. Shantabai's school record is of 1932 whereas that of Dattatraya is of 23rd June 1934. Their school records show that they belong to Mahadeo Koli community. These are all entries made prior to the constitution coming into force. There should be no reason as to why these entries of 1932 and 1934 should be rejected. Counsel for the petitioners have relied on the Genealogy showing the relationship and submitted that the Committee has not disputed the relationship.

7. Mr.Godbole appearing for Vishwas Khade pointed out that there was an additional factor in favour of Vishwas that a son of his maternal uncle had been issued a caste certificate as belonging to the Mahadeo Koli community which had been held to be valid. The petitioners also relied upon the order dated 30th March 1990 passed by the Commissioner, Pune Division, Pune in the case of Chandrakant Mahadeo Khade, brother of Vishwas.

8. Even if we keep aside the decisions either

of the Commissioner, Pune in the case of Chandrakant (supra) or of the Scrutiny Committee in the case of cousin of Vishwas, what is more important are the original documents. In the present case, we have three original documents prior to 1950, two documents showing the community as Mahadeo Koli and one as Koli. They are all pre-constitution documents. In those days there was not much awareness as to whether one belongs to Koli community or of Mahadeo Koli. It is in these circumstances that whereas one brother recorded his caste as Koli, another brother and sister recorded their caste as Mahadeo Koli.

9. These are the factors which cannot be ignored and if the descendants of Gangaram such as Vikram and Virendra are given benefit of the certificates of Shantabai and Dattatraya ignoring the adverse entry in the case of Namdeo, there is no reason as to why same yardstick should not be followed in the case of the present petitioners. It is material to note that as per the Vigilance Report, both these branches of Gangaram and Savalaram hail from the same village in Nasik District.

10. In the circumstances, we allow all these

four petitions, set aside the orders passed by the Scrutiny Committee and give a declaration that all these petitioners belong to the Mahadeo Koli community. In view of this decision, the Scrutiny Committee will now issue the validity certificates to all the petitioners within four weeks from the receipt of this order.

11. In the facts and circumstances of the case, there will be no order as to costs.

(H.L. GOKHALE, J.)

(J.H. BHATIA, J.)